

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and these remarks.

Cancellation of claims 1-33 is requested, without prejudice or disclaimer, and claims 34-43 are added. The new claims essentially track language of certain original claims, which applicant, for the sake of simplicity, has cancelled along with all other original claims.

Thus, new claim 34 incorporates recitations from original claims 1 and 4 and is directed to an isolated monoclonal antibody (MAb) against a von Willebrand factor cleaving enzyme, *a/k/a* ADAMTS-13. The claimed MAb recognizes a polypeptide portion with a prescribed relationship to SEQ ID NO. 1. which portion is selected from the group consisting of the disintegrin-like domain, Tspl-1 domain or Cys-rich region to the spacer domain, the Tspl-2 domain, the Tspl-3 domain, the Tspl-4 domain, the Tspl-5 domain, the Tspl-6 domain, the Tspl-7 domain, and the Tspl-8 domain. See also paragraph 006 of the published version of the present application, where “the molecular structure of ADAMTS-13 is summarized.”

None of the foregoing changes enters impermissible new matter, therefore, and so applicant requests their entry. Upon entry, claims 34 – 44 will be pending.

The proffered changes obviate each stated grounds for the various rejections of record. For instance, amended claims 1 and 12 recite an “isolated” MAb (section 101 rejection). The present claims recite specific aspects of the molecular structure of ADAMTS-13, as noted, and this response also accompanies a statement, by an attorney of record, regarding the deposits referenced in the Office action at the bottom of page 3 (rejections under section 112, first paragraph). The examiner’s expressed concerns over the clarity of original claim language (rejections under section 112, second paragraph) likewise have been addressed.

The action also propounds a number of prior-art rejections, asserting anticipation or obviousness. Yet the present claims do not recite a metalloprotease domain among the polypeptide “portion[s]” that the MAb “recognizes.” Compare, for example, the alleged teaching by cited WO 02/042441 of an antibody that “is made against [a] metalloprotease domain” (page 6, line 8 under section 16 heading). Accordingly, the claims are patentably distinguished over the prior art illustrated by the references of record.

Finally, the Office action advances the position, with respect to a provisional, obviousness-type double patenting (ODP) rejection, that both the present claims and claims 5 – 7 of a commonly owned application, serial No. 10/549317, are “directed to antibodies capable of binding to a polypeptide ... derived from the ADAMTS-13 polypeptide” (page 11, second full paragraph). Applicant notes, however, the mentioned claims 5 – 7 have “withdrawn” status in the ‘317 case and, hence, will not issue there. Since it remains to be seen when or even whether the common owner will pursue the subject matter of these withdrawn claims, applicant respectfully demurs on the issues of a terminal disclaimer. *See* MPEP 804, section B.1 (“If ‘provisional’ ODP rejections in two applications are the only rejections remaining in those applications, [then] the examiner should withdraw the ODP rejection in the earlier filed application ...”).

Applicant further submits that the present application is in condition for allowance. Withdrawal of the pending rejections and an early indication of allowability are requested, therefore. Examiner Haddad is invited to contact the undersigned directly, should he feel that any matter warrants further consideration.

The Commissioner is hereby authorized to charge any additional fees, which may be required under 37 CFR §§ 1.16-1.17, and to credit any overpayment to Deposit Account No. 19-0741. Should no proper payment accompany this response, then the Commissioner is authorized to charge the unpaid amount to the same account. If any extension is needed for timely acceptance of submitted papers, applicant hereby petitions for such extension under 37 CFR §1.136 and authorizes payment of the relevant fee(s) from the deposit account.

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Respectfully submitted,

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